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PTO/SB/31 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**NOTICE OF APPEAL FROM THE EXAMINER TO  
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)  
005127.00180

In re Application of

Michael R. Friton

Application Number

10/776,242

Filed

February 12, 2004

For: FOOTWEAR AND OTHER SYSTEMS INCLUDING A  
FLEXIBLE MESH OR BRAIDED CLOSURE SYSTEM

Art Unit: 3728

Examiner: John T. Kavanaugh

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the decision of the examiner dated February 9, 2006 finally rejecting claims 7-23 and 30-37 in the above-captioned patent application.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

**\$ 500**

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:

**\$**

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.  
I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **19-0733**. I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number **34,701**

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

*William F. Rauchholz*  
Signature

**William F. Rauchholz**

Typed or printed name

**(202) 824-3000**

Telephone number

**May 9, 2006**

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

05/10/2006 100001 00000114 190733 10776242

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500.00 DA

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL  
for FY 2005**

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$500.00)**Complete If Known**

|                      |                   |
|----------------------|-------------------|
| Application Number   | 10/776,242        |
| Filing Date          | February 12, 2004 |
| First Named Inventor | Michael R. Friton |
| Examiner Name        | John T. Kavanaugh |
| Art Unit             | 3728              |
| Attorney Docket No.  | 005127.00180      |

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 19-0733 Deposit Account Name: Banner & Witcoff, LTD.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) ☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                      | SEARCH FEES |                      | EXAMINATION FEES |                      | Fees Paid (\$) |
|------------------|-------------|----------------------|-------------|----------------------|------------------|----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee(\$) | Fee(\$)     | Small Entity Fee(\$) | Fee(\$)          | Small Entity Fee(\$) |                |
| Utility          | 300         | 150                  | 500         | 250                  | 200              | 100                  | \$             |
| Design           | 200         | 100                  | 100         | 50                   | 130              | 65                   | _____          |
| Plant            | 200         | 100                  | 300         | 150                  | 160              | 80                   | _____          |
| Reissue          | 300         | 150                  | 500         | 250                  | 600              | 300                  | _____          |
| Provisional      | 200         | 100                  | 0           | 0                    | 0                | 0                    | _____          |

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 30 (including Reissues)

Multiple dependent claims

| Small Entity Fee (\$) | Fee (\$) |
|-----------------------|----------|
| 50                    | 25       |
| 200                   | 100      |
| 360                   | 180      |

**Total Claims****Extra Claims****Fee(\$)****Fee Paid (\$)**

- 20 or HP=

50

=

.00

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims****Extra Claims****Fee(\$)****Fee Paid (\$)**

- 3 or HP=

x

200

=

.00

HP = highest number of independent claims paid for, if greater than 3.

**Multiple Dependent Claims****Fee (\$)****FeePaid(\$)****3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets  | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------|---------------|--|----------|---------------|
| _____        | - 100 = _____ | / 50 = _____ (round up to a whole number) x      | =        | _____         |

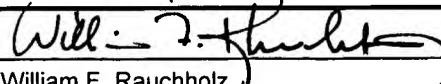
**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

\$500.00

Other (e.g., late filing surcharge) : Notice of Appeal Fee (\$500)

**SUBMITTED BY**

|                   |   |                                      |        |           |              |
|-------------------|---|--------------------------------------|--------|-----------|--------------|
| Signature         |  | Registration No.<br>(Attorney/Agent) | 34,701 | Telephone | 202-824-3165 |
| Name (Print/Type) | William F. Rauchholz  | Date                                 | 5/9/06 |           |              |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.